



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/770,086	01/31/2004	Gerald W. Kearby		9269
7590	03/11/2008		EXAMINER	
Gerald W. Kearby Back Office Music, LLC 2317 Broadway Street Suite 250 Redwood City, CA 94063			EVANS, KIMBERLY L	
		ART UNIT	PAPER NUMBER	4143
		MAIL DATE	DELIVERY MODE	03/11/2008 PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/770,086	KEARBY ET AL.	
	Examiner	Art Unit	
	KIMBERLY EVANS	4143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 31 January 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-26 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-26 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 31 January 2004 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 9/15/04.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) Notice of Informal Patent Application

6) Other: _____.

DETAILED ACTION

Status of Claims

1. This action is in reply to the application filed on January 31, 2004.
2. Claims 1-26 are currently pending and have been examined.

Information Disclosure Statement

3. The Information Disclosure Statement filed on September 15, 2004 has been considered. An initialed copy is enclosed herewith.

Specification

4. The disclosure is objected to because of the following informalities: inconsistent terminology within the specification, and the claims. The specification describes a "medium redeemer" and a "redeemer 8" whereas the claims refer to (data redeemer, medium redeemer and/or media redeemer) with regard to the functionality of the invention it is difficult to understand this feature of the invention due to inconsistent terminology.
5. Claim 1 refers to a "device", however neither the specification, nor the drawings distinctly describe in sufficient detail the functionality of this "device" or system. The specification makes use of "can be", "associates", and "can include" throughout the specification and does not clearly describe the metes and bounds of this "device". Applicant is requested to provide

definitions of key terms in the beginning of the specification before their initial use. Appropriate correction is required.

Claim Rejections – 35 USC § 112 – 2nd Paragraph

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 2 and 12 are rejected since the term “redeemer” was not introduced in earlier claims there is insufficient antecedent basis for this limitation in the claim.
8. Claims 2-5 recites “the data” which lacks antecedent basis.
9. Claim 8 is rejected since it describes a medium that “associates” with the medium container; “associates” is a relative term which could render the claim indefinite.
10. Claims 15-19 are rejected since they refer to “the redeemer” which was not distinctly described in Claim 15. It is unclear as to which redeemer (data redeemer or medium redeemer or media redeemer) described in the preceding claims, does the redeemer in Claim 15 refer. Claims 16-19 do not remedy this flaw and are also rejected. For the purposes of this examination, the Examiner will assume that the redeemer itself refers to the medium redeemer.

Claim Rejections - 35 USC § 101

11. The following is a quotation of the first paragraph of 35 U.S.C. 101:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title.
12. Claims 1-26 are rejected under 35 U.S.C. 101 because the claimed invention does not produce a useful, concrete and tangible result.

Claim Rejections - 35 USC § 102

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
14. **Examiner's Note:** The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

15. Claims 1-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Reisman US Patent Application No 2004/0031058 A1 issued February 12, 2004.

16. With respect to Claims 1 and 2, Reisman as shown discloses the following limitations:

- *a medium container, wherein the media container comprises a data redeemer*
- *the redeemer is used to access the data*

(see at least page 5, paragraph 42: "...a "hypermedia system" allows users to create, manipulate, and/or examine hypermedia, and consists of a "run-time layer" that provides tools for accessing, viewing, navigating, and manipulating hypermedia, a "storage layer" that models the basic node/link or resource/link network structure of the hypermedia, and a "within component layer" that addresses the structure of components or resources of various given types. The storage layer, as used herein, includes media that may be streamed directly from a media capture device, such as a camera, microphone, or other sensor, ..." and page 12, paragraph 84: "..."Storage device" refers to the element or elements of a storage system that include actual fixed or removable "storage media" capable of retaining content in an electromagnetic or other machine-readable form using any technology, including electronic, magnetic, optical, time-delay, molecular, atomic, quantum, transmission-delay and the like, including all future storage technologies...")

17. With respect to Claim 3, 4, 24, and 25, Reisman as shown discloses the following limitations:

- *the data comprises an audio performance*
- *the data comprises a visual performance*

(see at least page 5, paragraph 46: "..."Media format" or, synonymously, "resource format," as used herein refers to the format of a resource as retained, or potentially retained, as when streamed, in the storage layer and accessed by the browser, including access from local storage, via communications from a remote storage location or server or as streamed from storage or a live capture source.. and page 8, paragraph 61: "...content resources, unless

indicated otherwise or clear in context, "television" may be used as broadly inclusive of any video content or resource, including all forms of TV distribution, as well as movies, however distributed, live or recorded video, animations, 3DVR, or any other continuous visual media or audio/visual combinations...")

18. With respect to Claim 5, and 26, Reisman as shown discloses the following limitations:

- *the data comprises a computer application* (see at least page 36, paragraph 290: "...Should that software not be in place, it should be relatively simple to add it as a software-only upgrade to the existing STB devices, perhaps using standard software download/install capabilities. Such externally mediated transfers might be most easily accomplished as pull transfers, but addition of simple software functions at the STB (again, possibly using existing, installed hardware) to support activation of push transfers based on simple commands should not be difficult either. At a more fine-grained level, specific link activation and arc data (including ATVEF trigger data) could be sent from the STB to the head-end for relay to an alternate device set (or caused to be sent directly from the head-end)....")

19. With respect to Claim 6, Reisman as shown discloses the following limitations:

- *the medium container comprises a jewel case* (see at least page 10, paragraph 73: "... . Also included are associated input devices, such as remote controls, and storage devices such as VCRs (Video Cassette Recorders) and DVRs ...")

20. With respect to Claim 7 and 11, Reisman as shown discloses the following limitations:

- *the medium container comprises a label* (see at least page 25, paragraph 181: "...A name, which is user-readable, and can be used to label a selection presented to the user...")

21. With respect to Claims 8 and 14, Reisman as shown discloses the following limitations:

- *a medium that associates with the medium container*
- *a first a medium container, wherein the first media container comprises a first media redeemer, and a second medium container, wherein the second media container comprises a second media redeemer, and wherein the first media redeemer is unique from the second media redeemer.* (see at least page paragraph 351: "...Supplementary device sets include a notebook PC or a tablet PC with a wireless LAN connection that can be used from a sofa, and kept handy on an end table. Current notebook or tablet form factors are fairly suitable for such use, and improved designs can be made more convenient, and styled for various home decor tastes. Such a high-resolution device set enables power browsing for intensive tasks. Another device set is a PDA-style form factor that is more compact, easier to handle in a casual setting, and less expensive, but also less suited to power browsing and intensive work. Such devices might have a charging pad base unit designed for convenient nearby storage...")

22. With respect to Claims 9 and 10, Reisman as shown discloses the following limitations:

- *medium comprises a compact disc*
- *the medium comprises a digital video disc*

(see at least page 8, paragraph 63: "...The term "program" is meant to be used as broadly inclusive of any complete identifiable video (or audio or other media) segment or grouping of segments, including conventional broadcast or cable/satellite TV programs that may be identified by name or by channel and start time or other identifiers, as well as such alternatives as VOD or streamed programs from TV distribution industry or Internet sources, stored programs on cassette, CD, DVD, DVR, hard disk, or other storage media or systems, and ad hoc programs such as might be obtained from a camera (or microphone) or computer-based image (or sound) generation source (such as 3DVR)...")

23. With respect to Claim 12, 13, and 16, Reisman as shown discloses the following limitations:

- *the redeemer comprises a redemption code.* (see at least page 11, paragraph 82: "...A further common media content type is text, which may be coded in such formats as ASCII (American Standard Code for Information Interchange), HTML (Hypertext Markup Language),...and page 23, paragraph 165: Over time, a preferable method may be to adapt current ITV content and presentation systems to use Web technologies and standards (such as HTML and HTTP, or newer standards such as XHTML) as native formats for resource access and coding...and page 25, paragraph 180:... A required URL which refers to the corresponding enhanced content... and page 35 and paragraph 277: "...a demuxed and decrypted MPEG or similar stream that could give an external liberator or other device access to the content needed for full independent interaction (which might be output to a second A/V or RF connector, or via LAN), and optionally,..")

24. With respect to Claim 15, Reisman as shown discloses the following limitations:

- *distributing a first a medium container, wherein the first medium container comprises a first medium redeemer, and delivering the data when the redeemer is redeemed.* (see at least page 42, paragraph 355: "...Coordination of these services could be through any suitable protocol, including the use of the central master system and database, or any peer protocol, and can be based on distributed storage local to each device, or some use of shared storage at a local or remote server, including use of SANs or NAS. For example, such a transfer might occur between a speech-based browsing segment using a phone, and a display and button-based browsing segment using a PDA or PC...")

25. With respect to Claim 17, Reisman as shown discloses the following limitations:

- *activating the redeemer when the first medium container is distributed.* (see at least page 41, paragraph 352: "...Any devices at hand can be discovered and activated, including all systems owned by a user, as well as systems that may be temporarily available, such as

PDAs, notebooks, or tablets carried by visitors to a home or other venue..." and page 42, paragraph 359: "...Further options might push state to another device set, or to some intermediate caching storage or session proxy system or repository, in a ready but inactive mode, allowing the other device to activate the session at some future time, even if the originating system is unavailable, in what can be considered a pull from cache...")

26. With respect to Claim 18, Reisman as shown discloses the following limitations:

- *activating the redeemer before the first medium container is distributed.* (see at least page 42, paragraph 360: "...This might be desirable to simplify transfer to a device not yet ready, especially in cases such as for a time-specific link that might not be directly actionable by the time the new device was ready. Such a push could be completed when the intended target system was activated and became accessible...")

27. With respect to Claim 19, Reisman as shown discloses the following limitations:

- *redeeming the redeemer comprises validating the redeemer.* (see at least page 37, paragraph 291 and 292: "...an Internet portal that mediated the communications described by allowing user PCs to log in to a secured account to link to the state information on the TV (for any of that user's STBs) and request pull transfers (or receive push transfers)... The basic functions of such security measures are to identify and authenticate any PC user seeking access to data for a TV, and to use an access control list or similar specification of privileges to determine that the user at the TV and at the PC correspond to one another, at either an individual or family level, as may be desired, or are otherwise to be granted access privileges, with support for the case that different ID schemes and authentication methods may be used at the different device sets...")

28. With respect to Claim 20, Reisman as shown discloses the following limitations:

- *delivering comprises transferring from a remote storage medium to a local storage medium.* (see at least page 5, paragraph 46: "...Media format" or, synonymously, "resource format," as used herein refers to the format of a resource as retained, or potentially retained, as when streamed, in the storage layer and accessed by the browser, including access from local storage, via communications from a remote storage location or server or as streamed from storage or a live capture source...")

29. With respect to Claim 21, Reisman as shown discloses the following limitations:

- *transferring occurs over a network* (see at least Figure 6, page 19, and paragraph 135: "...therein is depicted the flow of an exemplary process 600 of transfer showing export and import of state. The process begins on system A with an interactive session in progress (step 605), in this case a browser session A1. A transfer request to transfer the browser session A1 to system B is initiated by reception of some trigger event (step 610)... Alternative events include link attribute coding as specified by a target attribute (following the model HTML) or a show attribute (following the XLink model) which may be triggered on link activation, or on load, as specified by an actuate attribute. To prepare for that, a transfer state record is assembled by exporter/importer/tracker for browser session A1 (step 615)...")

30. With respect to Claim 22, Reisman as shown discloses the following limitations:

- *transferring comprises downloading* (see at least page 58, paragraph 519: "...Any suitable means of distributed application integration may be used, including remote procedure calls or message oriented requests, and Web services using SOAP (Simple Object Access Protocol) and XML (and related service discovery and brokerage services such as UDDI, WSDL, and the like), as well as simple file download/upload...")

31. With respect to Claim 23, Reisman as shown discloses the following limitations:

- *wherein transferring comprises streaming* (see at least page paragraph 147: "...Such a lower level network service could be employed as a base for the middleware and/or application level coordination services described herein. Useful communications services could include messaging services that could be used to communicate session state transfer requests, event services that could be used for tracking session-related events, as well as streaming services that could be used for relaying signals from one device to another as different presentation device sets come to need access to resources...")

Conclusion

32. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Risan et al, US Patent Application Publication No 2004/0236945A1, Method and System for Controlled Media Sharing in a Network published November 25, 2004. Reference describes a method for controlling media sharing among a plurality of nodes in a network.
- Calhoon et al, US Patent Application Publication No 2004/0175098 A1, Systems and Methods for Receiving, Storing, and Rendering Digital Video, Music, and Pictures on a Personal Media Player published September 9, 2004. Reference describes systems and methods for receiving, storing, and transmitting images on a portable playback device.

Art Unit: 4143

33. Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Kimberly L. Evans** whose telephone number is **571.270.3929**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **James A. Reagan** can be reached at **571.272.6710**.

34. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see [<http://pair-direct.uspto.gov>](http://portal.uspto.gov/external/portal/pair). Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free). Any response to this action should be mailed to: **Commissioner of Patents and Trademarks Washington, D.C. 20231** or faxed to **571-273-8300**. Hand delivered responses should be brought to the **United States Patent and Trademark Office Customer Service Window**: Randolph Building 401 Dulany Street, Alexandria, VA 22314.

/Kimberly Evans/Examiner, Art Unit 4143

February 28, 2008

/James A. Reagan/Supervisory Patent Examiner, Art Unit 4143